

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
CLEVELAND DIVISION

Victorio C. Rodriguez M.D.(Pro Se)
Plaintiff

-VS-

UNITED STATES OF AMERICA
ET AL (defendant)
(GEORGE KNAPPENBERGER M.D.)

INDIVIDUAL DEFENDANTS
CHARLES MOORE
MURRAY D. ALTOSE M.D.

PARTIES:

PLANTIFF:

VICTORIO C. RODRIGUEZ M.D. (PRO SE)
7791 HOERTZ ROAD
PARMA, OHIO 44134
Tel. 440-884-6908

Vietnam Veteran /Bronze Star

COMPENSATION FILE #-28-365-780

20 % DIABETES MELLITUS TYPE II(02/28/2006)

20% PERIPHERAL NEUROPATHY (RT. LOWER EXTRIMITY)(02/28/2007)

20% PERIPHERAL NEUROPATHY(LEFT LOWER EXTRIMITY)(02/28/2007)

10% ISCHEMIC HEART DIASEASE(04/19/2010)

Overall Disability Rating --60%

DEFENDANT

1. UNITED STATES OF AMERICA ET AL
Washington D.C.

FILED
NOV 17 PM 3:00
U.S. DISTRICT COURT
CLEVELAND, OHIO
CASE NO. **1:14CV2526**

JUDGE JUDGE GWIN

MAG. JUDGE BAUGHMAN

2. INDIVIDUAL DEFENDANTS:

(1)CHARLES MOORE

**VETERANS Regional SERVICE CENTER MANAGER
Cleveland(Ohio) Regional Office
A.J. Celebrezze Federal Building
1240 East 9th Street,Cleveland, Ohio 44106
Tel. 1-800-827-1000**

(2)MURRAY D. ALTOSE M.D.

**INTERNIST(PULMONOLOGIST), SERVICE LINE MANAGER –
TERTIARY MEDICAL/SURGICAL ,VISN 10
CHIEF OF STAFF, MEDICAL STAFF
LOUIS STOKES CLEVELAND VA MEDICAL CENTER
10701 East Blvd., Cleveland, Ohio 44106
Tel.(216) 791-3800**

COMPLAINTS

COUNT 1. Plaintiff, Victorio C. Rodriguez M.D.

Practicing Family Practice for 42 Years in Ohio, pursuant to the Federal Torts Claims Act, 28 U.S.C. 1436(b), 28 U.S.C. 2671 to 2680, seeks Monetary Compensation in the amount of \$ 30,000,000.00, arising from defendant United States of America's negligent in the timely management, unreasonable delay, in the care, treatment of Plaintiff's Ischemic Heart Disease resulting to an Acute elevated ST Myocardial Infarction in which the Plaintiff almost died.

NEGLIGENCE --IF THE FOLLOWING WERE COMMITTED:

(a)Duty of Care- Dr. George Knappenberger , Primary Care Physician – an Internist – Geriatrics . He is the Primary Care Physician who has been treating the Plaintiff for all of his health problems since May 17, 2007 to July 14, 2014 after he was transferred to Louis Stokes Cleveland VA Medical Center.

(b)Breached of Duty—Unreasonable delay in the management and care of Plaintiff's persistent left sided chest pain due to Ischemic Heart Disease. From May 24, 2007 to December 17, 2012(when the plaintiff suffered an Acute Heart Attack).

(c) Harm – Plaintiff suffered an Acute Elevated ST Myocardial Infarction while asleep, which woke him, if not he should have died.

(d)Damaged- Plaintiff's morbidity and mortality of sudden cardiac death has increased, overall health has gotten worst.

COUNT 2. This Court has jurisdiction under:

- (1) **Bivens v. Six unnamed employees of the federal Bureau of Narcotics 403 U.S. 388(1971)**
- (2) **Carlson v. Green 446 U.S. 14(1980)**
- (3) **Davis v. Passman 99 S. Ct. 2264(1979)**
- (4) **Cushman v. Shinseki 576 F. 3d 1290(Fid. Cir 2009)**
- (5) **Havel v. Villa St. Joseph 131 Ohio St. 3rd 235(2012),**
O.R.C 2135-21(B)Constitutional- Ohio Supreme Court- plaintiff requests bifurcation for Punitive and compensatory damages for flagrant violations of plaintiff's constitutional rights.

PLAINTIFF , SEEKS COMPENSATORY AND PUNITIVE DAMAGES FROM THE INDIVIDUAL DEFENDANTS FOR FLAGRANT VIOLATION OF THIS SETTLED CONSTITUTIONALLY PROTECTED DUE PROCESS PROPERTY RIGHTS(ISCHEMIC HEART DISEASE) UNDER THE 5TH AMENDMENT OF THE U.S. CONSTITUTION.

Jurisdiction and Venue

COUNT 1. FEDERAL TORT CLAIMS ACT(FTCA)

This court has jurisdiction over this subject matter pursuant to 28 U.S.C. 1331 . This action arises under the laws of the United States of America, premised on the acts and omissions of the defendant acting on the color of federal law.

This court has further subject matter jurisdiction pursuant to Federal Torts Claims Act (FTCA)28 U.S.C. 1346(b), 2671-2680, in that this claim is against the defendant United States of America, for money damages, accruing on or after January 1, 1945 for personal injury caused by the negligent and wrongful acts and or omissions of employees of the government, while acting within the course and scope of their office or employment, under the circumstances where the defendant if a private person would be liable to the plaintiff.

The Plaintiff sent the Administrative claim Standard form 95 to Dennis Mcguire Regional Counselor, Region 7 -- Ohio/West Virginia via certified mail on April 26, 2014. This administrative claim was referred to Michael Biddel. The Standard form 95 was received on April 29, 2014 and acknowledged by Lisa Hoffman/ Michael Biddel.

Michael Biddel, Regional Counsel requested additional information in accordance with 28 C.F.R. part 14, There was no denial yet of this administrative claim.

Daniel Rattray, Regional Counsel 23 --North Carolina/ Virginia DENIED the administrative claim on July 3, 2014 wherein he has no jurisdiction.

This lawsuit is timely and pursuant to 28 U.S.C. 2401(b) in that it was presented to the appropriate federal agency within two years (December 17, 2012) of accrual and this action was filed six months after there was no action by the Regional Counsel 7 of the Federal Agency with jurisdiction.

Under the Federal Tort Claims Act(FTCA), the Department of Veterans Affairs has six months to investigate the claim and render a decision , 28 U.S.C. 2675(a), 28 C.F.R. 14.9

This Venue is proper in this jurisdictional district pursuant to 28 U.S.C. 1391(b) and 1391(c) as plaintiff resides and the negligent and wrongful acts or omissions giving rise to these claims occurred in the same location (Cuyahoga County, Ohio).

THE FEDERAL TORT CLAIMS ACT (FTCA)

Is a Statute that was passed by the United States Congress allowing certain claims to be brought against the United States government for the negligent or wrongful acts of its employees for property damage, personal injury or death of any government employee while acting within the scope of his/hers office or employment. The provisions are found in title 28 U.S.C. 1346(b) 1402(b), 2401(b) and 2671-2680 and also, the FTCA regulations are found in 28 C.F.R. 14.1--14.11, 543.30--543.32.

Because of it's Sovereign Immunity, the United States cannot be sued unless it consents to be sued.

The FTCA waives the U.S. government sovereign immunity if its employees are negligent or wrongful within the scope of their employment, however its waiver of sovereign immunity is limited.

This lawsuit is about Discretionary Acts exemptions by the United States et al/ Dr. George knappenberger- primary care physician of the Plaintiff since May 24, 2007 to July, 2014 when he was transferred to Lois Stokes Cleveland VA Medical Center.

There was negligence in the timely management, unreasonable delay in the care, treatment of plaintiff's Ischemic heart disease resulting to an Acute elevated ST myocardial infarction. This was brought about by Dr. Knappenberger failure to assess the status of the Plaintiff's coronary arteries having a history of persistent left sided chest pain due to Ischemic Heart disease. The Cardiac MRI which Dr. Knappenberger ordered was withheld by a Radiologist who reports to the Chief of Medical Staff/Dr. Murray D. Altose. So the buck stops with Dr. Murray D. Altose .

Dr. Knappenberger is responsible for referring the Veteran to a Cardiologist to help him in the management, treatment of Veteran's Ischemic Heart Disease. Plaintiff requested Cardiology consult but was not ordered and or ignored. He was negligent in not re-ordering Cardiac MRI.

Dr. Knappenberger was negligent in not informing the Plaintiff, the results of his Bilateral Duplex Carotid Scan which showed moderate narrowing by atheromatous plaques of the Left Internal Carotid Artery. This test was ordered by Parma Optometry Out Patient Clinic on September 8, 2012 by Dennis Tustan, cosigned by Vincent Driggs.

This was ordered because of intermittent flashing of lights in the superior right Eye. This is to rule out emboli coming from the Carotid arteries or the Coronary arteries. Atheromatous plaques develops first in the coronary arteries before the carotid arteries.

Dr. Knappenberger should have re ordered the Cardiac MRI to confirm the diagnosis , assess the status of plaintiff coronary arteries.

Cardiologists should have been consulted specially with the history of agent orange exposure, diabetes mellitus type II hypertension, hyperlipidemia, neuropathies.

THESE ACTIONS ARE ALL NEGLIGENT OMISSIONS AND COMMISSIONS BY DR. KNAPPENBERGER IN NOT RE-ORDERING the Cardiac MRI, consultations to a cardiologist, assess the status of the coronary arteries of the Plaintiff.

THESE ARE Non Discretionary acts as in RE:

(a) Jackson v. Kelly, 557 f. 2d 735 (10th Cir 1977)

The court held that a Doctor's exercise of Medical Judgment does not necessarily involve discretion for the Discretion Exception.

(b) Henderson v. Bluemink 167 U.S. App. D.C. 161, 511 F. 2d 399

The court held that Purely Medical and not Governmental Judgment in nature are NON DISCRETIONAL.

c) **Berkovitz v. United States, 486 U.S. 531(1988)**The court held that, if you asked the U.S. government employee if they exercised Judgment or Choice in doing what they did. Conduct can not be discretionary unless it involves an element of judgement or choice. The discretionary exception will not apply when a federal statute, regulation or policy specifically prescribes a course of action that an employee has to follow
Re: **Dalehite v. U.S.**

COUNT 2. Individual defendants Charles Moore and Murray D. Altose M.D. are not the same lawsuit and are different from the Federal Tort Claims Act(FTCA) in Count 1.

42 U.S.C. 233, does not apply in this Case.

INDIVIDUAL DEFENDANT'S are charged with FLAGRANT VIOLATION OF THE CONSTITUTIONALLY SETTLED DUE PROCESS PROPERTY RIGHTS OF THE PLAINTIFF UNDER THE 5TH AMENDMEN OF THE U.S. CONSTITUTION.

These individual Defendants can not be afforded qualified immunity, because the Defendants committed OBJECTIVE AND SUBJECTIVE BAD FAITH.

The DUE PROCESS OF THE 5th amendment of the U.S. Constitution are known by these Individual Defendants:

- 1. Dr. Murray D. Altose**
Chief of Medical Staff, Louis Stokes Cleveland VA Medical Center,manager tertiary Medical/surgical VISN 10
- 2. Charles Moore/Cleveland VA Service Center Manager**
Refer to Attachments for 1 and 2.

PLAINTIFF:

The Plaintiff/veteran comes from Baguio City, Mt. Province, Philippines. He finished his Medical School from the Far Eastern University, Institute of Medicine, Manila, Philippines in 1966.

After passing the Educational Council for Foreign Medical Graduates(ECFMG) in 1966, the plaintiff immigrated to the United States in 1967. He did his Rotating Internship from St. John's Hospital, Cleveland, Ohio in 1968. The plaintiff then volunteered to join the United States Army - 1969-1971.

The Plaintiff was a Battalion Surgeon with the 1/501, 101st Airmobile Division stationed near the demilitarized zone in Vietnam from 1969 to 1970. His unit, a maneuver battalion was

involved with Operation Lamar Plains, wherein Sergeant Santiago Erevia was just awarded the Congressional Medal of Honor by President Obama. The Veteran was awarded the Bronze Star Medal. He was discharge in 1971 with the rank of Major.

The Plaintiff was not aware nor was informed that his Army Unit, the 1/501st, 101st Airmobile Division was sprayed and or exposed to Agent Orange while he was in Vietnam from 1969 to 1970.

The Plaintiff was a member of the Medical Staff with admitting privileges at St. Alexis Hospital, Cleveland, Ohio from about 1979. The hospital was acquired by another corporation, changing the name to St. Michael's Hospital till its closure in 2003.

The Plaintiff was admitted as a 24 hour observation through the Emergency room at St. Alexis Hospital in about 1987. There are no more medical records found after all Medical Records of the plaintiff were transferred to St. Vincent Charity Hospital following the closing of St. Michaels Hospital in about 2003.

Dr. Conrad Javier was his attending Physician who is now retired and has no more medical records of the veteran. The plaintiff was diagnosed as having Diabetes Mellitus type 2 in 1987.

Dr. Lolita Agra prescribed insulin, oral diabetic pills in the 2000. She has no more medical records of the plaintiff.

Being a practicing Family Physician, the Plaintiff treated himself.

1. In the late 2006, the Plaintiff saw an advertisement in an RTA bus here in Cleveland, Ohio, encouraging Vietnam Veterans who has Diabetes Mellitus type II, to register for Agent Orange Registry Examination.

2. February 28, 2007 :

The Plaintiff/Veteran submitted VA 21-526 form (VONAPP) for disability compensation with the Veterans Administration.

(Exhibit A-Notes from Cleveland VA Regional Center)

3. April 27, 2007 :

The Plaintiff/Veteran went for Agent Orange Registry Examination at the Brecksville VA, Ohio. Physician Assistant, John P. Birdsell did the registry examination. Aside from the other tests, he ordered an EKG because of episodes of chest pain and palpitations.

The EKG showed non specific ST changes, Q wave changes (ischemic?) in lead III, but was read as normal. He was then scheduled for Stress Test.

The Plaintiff was scheduled for STRESS Test on June 11, 2007 by Physician Assistant Birdsell because of chest pain.

The Plaintiff being a physician told Physician Assistant Birdsell that stress tests are not reliable and are non diagnostic. The Plaintiff reminded P.A. Birdsell that the former President Clinton had a normal Stress Test, but he had Coronary By Pass Surgery. (Exhibit B- Progress Notes from Louis Stokes Cleveland VA)

4. May 24, 2007, 12:53

Dr. George F. Knappenberger, Primary Physician – Internist-Geriatrics.

He saw the Veteran for enrollment in the VA Health Care System.

The Veteran told him that he was having chronic dyspnea on exertion due to Diabetic Gastroparesis with distention of the stomach, gets better when he lays down. He also has occasional left sided chest pain and is scheduled for Stress Test on June 11, 2007.

Tobacco use/abuse--- just occasional, socially, No alcohol
ED- since 2000, tried Viagra, Levitra, Cialis but made his eyes red.
Semi-retired has an office on East 55th street.

(Exhibit C---- Progress Notes taken from the Louis Stokes
Cleveland VA Medical Center)

5. November 6, 2007, 14:49

Compensation/Pension Examination.

Nurse Practitioner Jean Reed did the Examination

Receipt acknowledge by Barbara Fleming – Endocrinologist

11/06/2007 21:40

Her findings:

(a) Diabetes Mellitus type 2 on insulin

(b) Peripheral Neuropathy of the lower Extremities since 2000

(Exhibit D—progress notes from Louis Stokes Cleveland VA)

6. The Veterans Administration awarded these disabilities:

(a) 20% Diabetes Mellitus type II(02/28/2007)

(b) 20% Peripheral Neuropathy Right lower Extremity(02/28/2007)

(c) 20% Peripheral Neuropathy Left lower Extremity (02/28/2007)

Total Disability Rating 50%

Conditions Not Service Connected, Not Granted

- (1) Conjunctivitis associated with herbicide exposure**
- (2) Diabetic Gastroparesis associated with Diabetes Mellitus type II**
- (3) Dermatitis**
- (4) Chloracne associated with herbicide exposure**
- (5) Neurocirculatory asthenia**

(Exhibit E- Notes from Cleveland VA Regional Office)

- 7. December 12, 2007 The Plaintiff sent Notice of Disagreement to the Veterans Administration, was received on December 12, 2007.**

These are about the effective dates of Diabetes Type II, peripheral neuropathy of the lower extremities and those diseases, conditions that are not service connected.

(Exhibit F- Compensation File records from the Cleveland VA regional Office)

- 8. January 2, 2008**

Reply from Plaintiff's Notice of Disagreement by the Veterans Administration. In Re: 325/213A/KRB

- (a) Entitlement to an earlier effective date than Feb. 28, 200 for the grant of service connection for Diabetes Mellitus type II**
- (b) Evaluation of Diabetes type II**
- (c) Service connection of Dermatitis**
- (d) Service connection for Diabetic Gastroparesis**
- (e) Service connection for Neuro-circulatory asthenia**

(Exhibit G--Compensation File from the Cleveland VA Regional Office)

- 10. April 9, 2009 3:25**

Plaintiff letter for Reconsideration to Veterans Administration addressed to Christine Alford, Veterans Service Center Manager Acknowledge by VA on 04/09/2009.

Also, 37 CFR 1.132 Declaration of Victorio C. Rodriguez M.D.

(Exhibit H--Compensation File from VA)

- 11. May 16, 2009**

Plaintiff Notice of Appeal to the Department of Veterans Affairs Acknowledged by Veterans Administration on 05/18/2009 10:50 A.M.

(Exhibit I--Compensation File from VA)

- 12. October 21, 2009 1: 58**

Parma Community General Hospital Emergency Room Observation:

**Diagnosis: Headache, visual disturbances, Hypertension
Release of Plaintiff records to the Veterans Administration
Acknowledged by VARO CLEVELAND 11- Jun 2010, 2:13 P.M.
(Exhibit J—)**

13. October 22, 2009

**Notice of Disagreement from Victorio C. Rodriguez M.D.
In Re: 213 A/GFS Response from Veterans Administration
Issue: Entitlement to an effective date prior to
February 28, 2006, for service connection of
Diabetes Mellitus type II
(Exhibit K)**

**14. MAY 12, 2008: Reply to request for medical records from
St. Alexis Hospital, from St.Vincent Charity Hospital received
“INDICATING THAT THE VETERAN HAD NOT BEEN SEEN”
(Exhibit L--Compensation Fiile from VA)**

**15. JUNE 29, 2009 -Reply from St. Vicent Charity Hospital
“ INDICATING THE INFORMATION REQUESTED IS NOT
FOUND IN THE MEDICAL RECORD”**

**The above means to say that I have a MEDICAL RECORD
that I was admitted at St. Alexis Hospital which contradicts the
Veterans Administration statements -- May 12, 2008
My Blood Sugar was about in the 250's.**

(Exhibit M- File from VA)

**16. Definition of Benign. This is about DRO who reviewed my notice
of disagreement statement that my Abdominal distention is Benign.
That I have no complaints—this is (clear and Unmistable Error)
(Exhibit N-- Compensation File from VA)**

**17. Plaintiff's Notice of Appeal to the Veterans Administration Board
of Appeals—11/07/2009**

Acknowledge by VA- November 24, 2009 1:46

(Exhibit O-- Compensation File records from VA)

**18. June 6, 2009 :Compensation and Pension Exam Inquiry from the
Cleveland VA Regional Office Requester : Contact KristenRomoser-
Breno**

**05/06/2009-- Gastroenterology consult to Cleveland Clinic.
Asking for the Cleveland Clinic colonic transit report. There is
no report available in the electronic medical record
(Exhibit P --Medical Records from Louis Stokes Cleveland VA)**

19. November 7, 2009

Plaintiff Appeal to the Board of Veterans Affairs

Received by 325 Varo Cleveland 11, November 24, 2009 1:46 P.M.

(Exhibit Q—Compensation file from VA)

20. April 15, 2010 12:54

**Review - Medical Records of Victorio C. Rodriguez M.D. by
Nurse Practitioner Jean Reed – Compensation/Pension Exam
04/15/2010**

**Report: 67 year old veteran ,family practice physician ,diagnosed
with diabetes mellitus type II, hypertension in 1987 was
hospitalized for dizziness and weakness at St. Alexis Hospital.
Also partial ileus , colonic polyps, ED, hemorrhoids,
dry eyes, eczema, degenerative joint disease. He began treatment
with Dr. Javier, who started him on oral Agents, insulin was
added in the 2000's. Smokes a couple of cigarettes per year.
Denies alcohol consumption.**

EKG NSR, possible inferior infarct , age undetermined.

Signed by Judith AS. Reed Nurse Practitioner- 04/15/2010 12:54

**Receipt acknowledged by Amy B. Schechter M.D. Internist
04/16/2010**

**(Exhibit R-- Medical Records taken from Louis Stokes
Cleveland VA)**

**22. May 10, 2010 : Department of Veterans Affairs asking why
mental examination—for Neurocirculatory asthenia was cancelled.**

Response by Victorio C. Rodriguez M.D.

**He is modifying his claim for Chest Pain is due to Ischemic Heart
disease instead of Neurocirculatory asthenia.**

**If the Cardiac MRI ordered by his primary physician was
found to be normal, plaintiff will proceed to Neurocirculatory
asthenia. Acknowledged by VA ---05/10/10--- 325 EP 020 Doc
(Exhibit S--Compensation File Record taken from VA)**

**23. Progress Notes from Louis Stokes Cleveland VA Medical Center
(Medical Records taken from Louis Stokes Cleveland VA Medical
Center) Patient on 04/15/10—for further evaluation of chest pain.
The patient is adamant to have Cardiac MRI, EKG- possible
inferior infarct—Cardiac MRI was ordered. Veteran explained
the reasons why.**

(Exhibit T-file from Louis Stokes Cleveland VA)

24. June 9, 2010

**Letter from the Department of Veterans Affairs working on
Victorio C. Rodriguez M.D. claim for ISCHEMIC HEART
DISEASE requesting additional evidence IN RE: 325/211B/SFC
June 9, 2010**

(Exhibit U- File Records taken from VA)

25. June 26, 2010

**Statement in of Support of Claim Response of
Victorio C. Rodriguez M.D. IN RE : 325/211B/SFC
June 26, 2010, Acknowledged by VA—July 01, 2010 2:13 P.M.**

**Veteran (being a physician) requested his primary physician
an internist-Geriatric to order Cardiac MRI instead of Cardiac
Catherization, or stress test, explained the reasons why. He said
he will ask permission from you.**

**Veteran further said if something happens to him the Veterans
Administration will be responsible.**

**Dr. Knappenberger also told the veteran that he only answers
to the Veterans Administration and not to his patients.**

(Exhibit V--Compensation File Records from VA)

**26. Cardiac MRI was ordered because Plaintiff's disabilities
prevents him from doing other non invasive and invasive cardiac
tests, non invasive non diagnostic for Coronary Artery Diseases.**

**(a) Stress Test: His Ileus --colonic neuropathy , Abdominal
distention causes him to have shortness of breath.**

**(b) His peripheral neuropathy of both lower extremities --hard to
do Stress test, this involved the lower extremities.**

(c) Cardiac Catherization -- because of complications.

**(Exhibit W--Medical record taken from Louis Stokes
Cleveland VA Medical Center)**

**27. The Department of Veterans Affairs Compensation and Inquiry
Requester : Richard VanWinkle -- Regional Office Tiger Team
Re: Exams on Intestine, Peripheral Nerves, Skin
(Taken from Compensation Records from the Veterans
Administration)**

(Exhibit X Compensation File from VA)

28. November 11, 2010

Paul B. Bartos, M.D.

**Heart Examination Report --Diagnosis--Ischemic Heart Disease
Waiting for Cardiac MRI Report**

(Report taken from Louis Stokes Cleveland VA Medical Center)

(Exhibit Y -Compensation File from VA)

**29. Letter of Victorio C. Rodriguez M.D. to MES SOLUTIONS :
SCHEDULING FOR STRESS TESTING AT THE AKRON
GENERAL HOSPITAL.**

**(Copy of Report from the Compensation File of the Plaintiff from
the Veterans Administration)**

(Exhibit Z—from Compensation File VA)

30. December 28, 2010

**Department of Veterans Affairs Rating Decision –
December 28, 2010 FOR ISCHEMIC HEART-
VICTORIO C. RODRIGUEZ M.D.**

(Exhibit 1(a)-from the Compensation-file of the Plaintiff)

31. February 5, 2011

**Notice of Disagreement of Victorio C. Rodriguez M.D. with
Regards to the Ischemic Rating Decision of the Veterans
Administration on 12/28/2010.**

Veteran did not refuse Stress Testing.

The explanations are:

(a) Abdominal distention causing shortness of breath

(b) Peripheral Neuropathy of the lower extremities.

(c) Recent myocardial infarction is contraindicated.

**(This record was taken from the Compensation file of the plaintiff
from the VA).**

Acknowledged by the Veterans Administration –01-24/2011

(Exhibit 1(b)— file from VA)

32. January 26, 2012

**Reply -- Department of Veterans Affairs Cleveland Regional
Office to the Notice of Disagreement of Victorio C. Rodriguez M.D.**

**a. Entitlement to an evaluation of greater than 10% for service
Connection for ISCHEMIC HEART DISEASE.**

**The Veterans Administration noted that the outpatient
medical records from the Cleveland VA Medical Center last
appointment on January 26, 2012, that there were no result of the
CARDIAC MRI and plaintiff was complaining of atypical chest
pain.**

The VA instructed the Plaintiff to submit the most recent CARDIAC MRI so that he might be eligible for a higher disability Evaluation. They should have known the Cardiac MRI was denied.

b. Entitlement to an effective date prior to April 19,2010 for Service connection for ISCHEMIC HEART DISEASE. Plaintiff instructed the VA that he is claiming Ischemic Heart Disease if the result of the Cardiac MRI was positive for Coronary Disease and not Neuro-Circulatory Asthenia(Soldier's Heart Disease – 02/ 28 /2007-Agent Orange Registry Examination).

(Exhibit 1(c) – file from VA)

33.Progress Notes: Optometry Clinic(Parma VA outpatient)

Author: Tustan, Dennis September 28, 2012 @15:19

Cosigner—Vincent Driggs September 28, 2012@19:04

Plaintiff was having intermittent superior flashes of light- OD. Bilateral Carotid Duplex Scan was ordered, to rule out emboli of atheromatous plaques from the Carotids.

Atheromatous plaques of the Carotids are also associated with Atheromatous plaques of the CORONARY ARTERIES.

On 10/19/2012 Examination the Bilateral Carotids showed:

Right Carotid is ---- 1- 39% (mild)

Left Carotid is----- 40—59%(moderate)

These test results were acknowledge by Dr. Knappenberger on 10/23/2012 13:41.

The PLAINTIFF (A licensed Physician) was never informed of these vital test results. Having been diagnosed for ISCHEMIC HEART DISEASE WITH PROPERTY RIGHTS BY VA the plaintiff had the right to be informed.

The Plaintiff having persistent left sided chest pain due to Ischemic Heart Disease, the status of the plaintiff Coronary Arteries should have been Assessed by either Cardiac Catherization or by CARDIAC MRI. If these test should have been done earlier, the Plaintiff should not have suffered an Acute elevated ST Myocardial Infarction on 12/17/2012. There was Complete Obstruction(100%) of the midportion of the left Anterior Descending Coronary Artery).

Miraculously, he woke up, if not he should have been dead.

(Exhibit 1(d) from Louis Stokes Cleveland VA)

34. December 17, 2012 to October 9, 2013

Hospital Admissions at Parma Community General Hospital

(a) December 17, 2012

Acute elevated ST Myocardial Infarction

Complete occlusion mid portion Left Anterior Descending

(b) July 20, 2013-Admitted for Chest Pain

(c) August 2, 2013—Chest pain, Repeat Cardiac Catheterization

(d) August 25, 2013—Chest pain

(f) October 9, 2013—Chest pain

(Exhibit 1(e)- files from Parma General Hospital)

35. Colonic neuropathy—abdominal distention (on appeal , clear and unmistakable error—(CUE)

Plaintiff was FIRST referred to Cleveland Clinic on

May 23, 2007, Re -Ordered again on May 31, 2009 .

These were all denied, over ruled by Dr. Murray D. Altos, Chief of Medical Staff, Louis Stokes Cleveland VA Medical Center

35. Cardiac MRI was ordered by D. Knappenberger on

April 18, 2012 5:35 , denied by Radiologist?, but

Every head of the department reports to the Chief of the

Medical staff who is Dr. Murray D. Altose where the buck stops in his Office.

36. December 19, 2012(after the heart attack also to get prescriptions ordered by Dr. Cohen(cardiologist-Parma General Hospita)- Appointment with Dr. Knappenber – the Cardiac MRI ordered again was denied before the heart attack.

37. On January 9, 2013 13:57(after plaintiff heart attack—12/17/2012)

Plaintiff had an Appointment with the Dermatology

Department because of dermatitis. Dr. Katz- attending Physician,

in the presence of Sital Patel- Dermatology Resident, Plaintiff

complained about Dr. Murray D. Altose withholding the Cardiac

MRI, having an Acute elevated ST Myocardial Infarction.

Dr. Katz commented that during their Higher up Meeting he was

surprised that Dr. Altose (chief of Staff) withheld the ordering –

Cardiac MRI of plaintiff, that he maybe in bad mood.

**38. Case# 20014-00651-HL0102- VA Office of the Inspector General
(Complaints sent to OIG by Plaintiff)**

Answer on January 6, 2014 by:

**Susan M. Fueher --Medical Center Director
Louis Stokes Cleveland VA Medical Center**

(1) Allegations Unsubstantiated

(2) Findings: Administrative Actions by the Chief of Staff were appropriate as the Veteran was referred back to Primary Care and Specialty Providers to determine the most appropriate course of treatment.

These are False statements made by Susan Fueher.

June 28, 2014

Response by Plaintiff- sent to the Office of the Inspector General

Copies to :

(1)Rep. Jeff Miller --Chairman House Committee on Veterans Affairs

**(2) Senator Bernie Sanders – Chairman-Senate Committee on
Veterans Affairs**

(Exhibit 1(f))

39. FRIENDLY FIRE –

BY Senator Tom Coburn M.D

Member Oversight Committee On Veterans Affairs

(Delay,Diagnosis,Treatment,Death,Veterans)

(Exhibit 1(g))

40. Attachments:

(1) Plaintiff—Victorio C. Rodriguez M.D.

(2) Defendants:

(a) Charles Moore- Veterans Center Manager Cleveland

**(b) Murray D. Altose M.D.- Chief of Staff, Louis Stokes
Cleveland VA Medical Center**

(Exhibit 1(h))

SUMMARY

This is a 71 year old male Veteran was exposed/sprayed with Agent Orange while with he was with the 1/501st, 101st Airmobile Division stationed near the demilitarized zone in Vietnam from 1969 to 1970.

He was hospitalized in 1987 at St. Alexis Hospital, Cleveland, Ohio for observation(No records), for weakness, loss of weight, blood sugar was in the 240's, diagnosed as having Diabetes Mellitus type II.

The Plaintiff was started on insulin, oral hypoglycemic drugs. He was seen by Dr. Javier (retired and has no medical records). Dr. Agra saw the plaintiff, prescribed insulin, plus needles. (No Medical records)

The plaintiff being a physician managed his diabetes Mellitus type II. Aside from being Diabetic, these events followed:

Year 2000: (1) Gastro-intestinal problems—Gastroparesis—due to Abdominal distention due to Colonic Neuropathy due to Diabetes Mellitus - II and or Agent Orange.

(2) Dermatitis due to Diabetes Mellitus type II and or Agent Orange

(3) Peripheral Neuropathy- Lower Extremities due to Diabetes Mellitus type II and or Agent Orange

In the late 2006, Plaintiff saw an ADD from an RTA bus advising Vietnam Veterans who has Diabetes Mellitus type II to Register for Agent Orange. So on February 28, 2007 Plaintiff applied for Compensation/Pension to the Veterans Administration via Internet.

On April 17, 2007, I went for Agent Orange Registry Examination performed by Physician Assistant John Birdsall. I complained about having occasional left sided chest pain. He ordered an EKG showing non specific ST changes lead III- read as normal. The plaintiff was scheduled for Stress Test for June 11, 2007 which was normal.

On May 24, 2007, Plaintiff saw Dr. Knappenberger – Internist-Geriatric for enrollment to the Veterans Health Care System. He asked questions: Plaintiff told Dr. Knappenberger that Plaintiff has been having chronic shortness of breath due to gastroparesis due to Abdominal distention, gets better when he lays down.

On November 6, 2007, plaintiff went for Compensation/Pension by Nurse Practitioner Jean Reed. Diagnosis: Diabetes Mellitus type II, and peripheral Neuropathy of the right and left lower extremities.

In December 2007 the Veterans Administration granted the plaintiff these disabilities : 20% Diabetes Mellitus type II (02/28/2006), 20% Peripheral Neuropathy of the Right Lower Extremity (02/28/2007), 29% Peripheral Neuropathy of the Left Lower Extremity (02/28/2007), Combined Rating of 50%.

CONDITIONS THAT ARE NOT SERVICE CONNECTED

- (1) Conjunctivitis associated with herbicide exposure
- (2) Diabetic Gastroparesis associated with Diabetes Mellitus type II
- (3) Dermatitis
- (4) Chloracne associated with herbicide exposure
- (5) Neuro-circulatory Asthenia

December 12, 2007—Notice of Disagreement by Plaintiff

January 2, 2008-----Veterans Administration reply to Plaintiff

May 12, 2008-----Response from St. Vincent Charity Hospital
that there are no medical records of the Veteran from
St. Alexis Hospital.

April 9, 2009-----Plaintiff letter to VA for reconsideration

May 16, 2009-----Plaintiff notice of appeal to VA

June 6, 2009-----**Compensation and Pension Exam Inquiry Report**
From Cleveland VA Regional Office—Kristen Romoser-Bueno-
She is asking about the consult to **Cleveland Clinic Gastroenterology**
Report- No report is found in the Electronic Medical record of Veteran.

June 29, 2009----- Report from St. Vincent Charity Hospital
Indicating that **VETERAN'S INFORMATION BEING REQUESTED**
IS NOT FOUND IN THE MEDICAL RECORD(from Electronic
Medical record of Veteran –from VA) This contradicts VA that the
Veteran was NOT SEEN May 12, 2008 response from St. Vincent
Charity Hospital.

October 21, 2009—Parma Community General Hospital-Veteran was
Seen in the Emergency room—Headache, Visual disturbances,
Hypertension

October 22, 2009—Notice of Disagreement from Veteran
Effective date of Diabetes Mellitus type II

November 7, 2009--Plaintiff's appeal to the Board of Veterans Affairs

April 15, 2010—**Compensation/Pension Examination requested by the**
Veteran's administration:

Nurse Practitioner Reed- april 15, 2010 12:54

Diagnosis: Diabetes Mellitus type II, Hypertension, partial ileus,
Colonic polyps, ED, hemorrhoids, dry eyes, eczema, degenerative joint
Disease. Smokes 2 cigarettes per year, denies alcohol consumption.

EKG—possible inferior infarct, aged undetermined.

Signed: Judith Reed, Nurse practitioner—04/15/2010 12:54

Receipt acknowledged by—Amy B. Schechter M.D. Internist
04/16/2010

May 10, 2010-

The Department of Veterans Affairs is asking why the mental
examination scheduled for the Plaintiff was cancelled on 04/15/2010.

The plaintiff cancelled the test because the EKG done on the same day-04/15/2010 showed possible inferior myocardial infarction- aged undetermined. This finding could explain the persistent left sided chest pain which I have been complaining to VA since 2007.

The Plaintiff notified the Veterans Administration that a CARDIAC MRI was ordered by Dr. Knappenberger (primary physican), that if the Cardiac MRI is normal he would go on with the mental test for Neuro circulatory asthenia.

This was acknowledge by the Veterans Administration on 05/10/10—325/EP/020 Doc

Dr. Knappenberger ordered the Cardiac MRI referral to be done at Cleveland Clinic Foundation.

The Cardiac MRI was withheld by the Radiologist who reports directly to Dr. Murray D. Altose/ chief of Medical Staff who is responsible for all activities of the Medical staff at Louis Stokes Cleveland VA Medical Center.

The Plaintiff was adamant about having the Cardiac MRI, He explained the reasons why he preffered the Cardiac MRI instead of Cardiac Catherization which is the golden procedure to confirm Coronary artery Disease.

June 9, 2010: Letter from the Veterans Administration to the plaintiff asking for additional evidence evidence to support the Ischemic Heart Disease in re: 325/211B/SFC

June 26, 2010: Response by Plaintiff in Re: 325/211/SFC

The plaintiff adviced the Veterans Administration that Dr. Knappenberger ordered the Cardiac MRI and he will ask permission from you. The Plaintiff also adviced the Veterans Administraion that if something happens to the Veteran, the Veterans Administration is responsible. Dr. Knappenberger also comented that he only answers to the Veterans Administration and not to his patients.

This was acknowledged by the Veterans Administration on July 1, 2010 2:13 P.M.

December 28, 2010: Disability Rating for the Ischemic Heart Disease By VA—10%— Advising the VA that he did not refuse stress testing but he is not able to do it because of his disabilities.

January 26, 2012: The Veterans Administration noted that there are no results of the Cardiac MRI in the electronic medical record of the Plaintiff. It is well documented in the Plaintiff electronic Medical record that the MRI was withheld and or denied.

May 1, 2012: Patient was admitted for 24 observation at Parma Community General Hospital, Parma, Ohio – Dr. Asis Rhakit Transthoracic echo- normal, Ekg-normal

September 28, 2012 – Veteran was seen at the Parma VA out patient clinic because of intermittent flashes of light in the superior aspect right Eye. Bilateral Duplex Carotid Scan was ordered to rule out emboli from atheromatous plaques from the Carotid arteries or Coronary Arteries.

Duplex Carotid Scan was done on October 19, 2012 showing moderate atheromatous Plaques of the left Carotid artery – 40 –59%, the Right Carotid –1-39% mild.

In atheromatous lesions, the Coronary artery is involved first before the Carotids. So in a patient who has history of diabetes, hypertension, persistent left sided chest pain, ischemic heart disease the patient (being a physician) has to be notified right away of this finding.

Dr. Knappenberger acknowledged receipt of the result Duplex Carotid Scan on October 23, 2012 13:41

Dr. Knappenberger negligently failed to notify the result of Duplex Carotid Scan to the Plaintiff nor did anything to re-order Cardiac MRI as soon as possible, referring to an interventionist cardiologist to perform Cardiac Catheterization.

December 17, 2012:

The Plaintiff suffered an Acute Elevated ST Myocardial Infarction- (100%) complete Obstruction of the mid-portion of the Left Anterior Descending branch of the left Coronary artery very early in the morning which woke him up. He was admitted at Parma Community General Hospital.

Dr. Jamie Cohen performed emergency Cardiac Catheterization inserted two(2) bare metal coronary stents.

The plaintiff was admitted four(4) more times at
Parma Community General Hospital, Parma, Ohio:

July 19, 2013; August 1, 2013; August 25, 2013; October 9, 2013

The pattern wherein my Primary Care Physician Dr. George Knappenberger were withheld and or denied like: Out of Network Specialty Consults; Out of Network Special Life Saving Procedures; Not Re-ordering the above are being obstructed by Dr. Murray D. Altose, Chief of Medical Staff, Louis Stokes Cleveland VA Medical Center and these may hold true through out the V.A.

The above are needed for the further Adjudication of Veteran's non service connected disabilities on appeal and to confirm Veteran's diagnosis. The Veterans Benefits Administration was requiring the Veteran to submit more evidences to substantiate Veteran's Appeals.

The Veterans Administration pattern of checking the Electronic Medical record of the Veteran wherein they do not find the needed evidences like: Results of Consultations; Results of special Medical Procedures like Cardiac MRI and ETC.

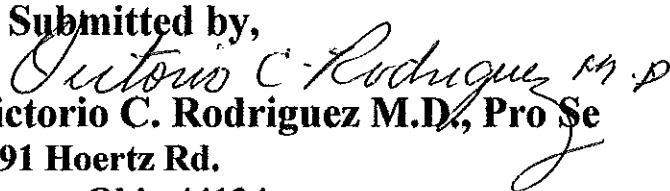
THESE EVIDENCES THEY ARE LOOKING FOR ARE NOT APPROVED, NOT RE-ORDERED, DENIED ARE CLEARLY FOUND IN THE VETERAN'S ELECTRONIC MEDICAL RECORD.

THE VETERANS ADMINISTRATION JUST DON'T CHECK OR IGNORES THEM.

UNLESS THE VETERAN GETS HIS/HER MEDICAL RECORDS AND COMPENSATION FILES FROM VA VIA FREEDOM OF INFORMATION ACT, HE/SHE WILL NEVER FIND OUT WHAT IS GOING ON WITH HIM.

THESE ACTIONS BY THE PLAYERS AS SENATOR TOM COBURN (PHYSICIAN) MEMBER OF THE OVERSIGHT COMMITTEE OF THE VETERANS AFFAIRS FOUND OUT THAT THESE LEADS TO THE DELAY IN DIAGNOSIS, TREATMENT, DEATH OF VETERANS.

November 17, 2014

Submitted by,

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